

ESTTA Tracking number: **ESTTA313966**

Filing date: **10/28/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The Laptop Company, Inc.
Granted to Date of previous extension	10/28/2009
Address	1400 Worcester Road#7420 Framingham, MA 01702 UNITED STATES
Attorney information	Ann Lamport Hammitte LANDO & ANASTASI, LLP One Main Street Cambridge, MA 02142 UNITED STATES alhtrademarks@ll-a.com

Applicant Information

Application No	77681512	Publication date	06/30/2009
Opposition Filing Date	10/28/2009	Opposition Period Ends	10/28/2009
Applicant	Microsoft Corporation One Microsoft Way Redmond, WA 980526399 UNITED STATES		

Goods/Services Affected by Opposition

Class 039. All goods and services in the class are opposed, namely: providing a web site and web site links to geographic information, map images, and trip routing
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Applicant Information

Application No	77681498	Publication date	08/18/2009
Opposition Filing Date	10/28/2009	Opposition Period Ends	
International Registration No.	NONE	International Registration Date	NONE
Applicant	Microsoft Corporation One Microsoft Way Redmond, WA 980526399 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. All goods and services in the class are opposed, namely: computer search engine software; graphical user interface software, namely, toolbar software for use with search engine software and websites</p>
<p>Class 035. All goods and services in the class are opposed, namely: advertising services; dissemination of advertising for others via the Internet; providing consumer product information via the Internet; advertising and directory services, namely, promoting the goods and services of others by providing a website featuring links to the websites of others; providing online directory services featuring business and personal directory information; providing an Internet website featuring news and information in the fields of national and international politics and business</p>
<p>Class 038. All goods and services in the class are opposed, namely: telecommunication services, namely, receipt and delivery of information, messages, documents, images and other data by electronic transmission; streaming of audio and video on the Internet</p>
<p>Class 041. All goods and services in the class are opposed, namely: education, namely, providing training and tutorials in the field of computer searching and online advertising; entertainment services, in the nature of providing online news and information in the fields of entertainment, education, pop culture, cultural activities and exhibitions, sports, and other non-business and non-commercial fields, namely, games, music, literature, the arts, television, films and performance art</p>
<p>Class 042. All goods and services in the class are opposed, namely: computer services, namely, providing search engines for obtaining data on a global computer network</p>

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77795043	Application Date	08/02/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BONGO BING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2008/00/00 First Use In Commerce: 2008/10/24 Comparison shopping services; Promoting the goods and services of others by means of operating an on-line shopping mall with links to the retail web sites of		

	others
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Attachments	77795043#TMSN.jpeg (1 page)(bytes) Notice of Opposition.PDF (17 pages)(731899 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	//alh//
Name	Ann Lamport Hammitte
Date	10/28/2009

2. Opposer has adopted, used, and is using in commerce the mark BONGOBING for its services in class 35, namely, “Comparison shopping services; Promoting the goods and

services of others by means of operating an on-line shopping mall with links to the retail web sites of others”.

3. Through widespread promotion and exclusive use, Opposer has secured strong common law rights in the BONGOING mark. Opposer’s BONGOING mark has achieved substantial public recognition and is a strong source indicator for Opposer’s services.

4. Opposer adopted and used the BONGOING mark prior to Applicant’s filing date. Opposer is the owner of U.S. Trademark Application No. 77/795,043 for BONGOING in class 35 as shown in Exhibit A, taken from the USPTO electronic database records (TARR and Assignment databases).

5. Opposer is informed and believes, and on that basis alleges, that Applicant, Microsoft Corporation, is a corporation of Washington, having an address at One Microsoft Way, Redmond, Washington 98052-6399.

6. On March 2, 2009, Applicant filed two intent-to-use applications, serial numbers 77/681,512 and 77/681,498 in the U.S. Patent and Trademark Office for the mark BING for the following goods and services:

Mark	Serial No.	Classes	Goods/Services
BING	77/681,512	09	providing a web site and web site links to geographic information, map images, and trip routing
BING	77/681,498	09	computer search engine software; graphical user interface software, namely, toolbar software for use with search engine software and websites
		35	advertising services; dissemination of advertising for others via the Internet; providing consumer product information via the Internet; advertising and directory services, namely, promoting the goods and services of others by providing a website featuring links to the websites of others; providing online directory services featuring business and personal directory information; providing an Internet website featuring news and information in the fields of national and international politics and business
		38	telecommunication services, namely, receipt and delivery of information, messages, documents, images and other data by electronic transmission;

			streaming of audio and video on the Internet
		41	education, namely, providing training and tutorials in the field of computer searching and online advertising; entertainment services, in the nature of providing online news and information in the fields of entertainment, education, pop culture, cultural activities and exhibitions, sports, and other non-business and non-commercial fields, namely, games, music, literature, the arts, television, films and performance art
		42	computer services, namely, providing search engines for obtaining data on a global computer network

7. According to the records of the USPTO shown on the TARR website and attached as Exhibits B and C, Applicant has filed no Allegation of Use in either application. Opposer has used its BONGOBING marks in commerce for its services from a date well prior to Applicant's filing date.

8. Applicant's mark is confusingly similar to Opposer's senior BONGOBING mark. Applicant's goods and services are identical to and/or closely related to Opposer's services provided under its BONGOBING mark. Applicant's goods and services are therefore likely to be offered in the same channels of trade, and to the same classes of customers, as Opposer's services offered under its BONGOBING mark.

9. Applicant's mark, when used in connection with the goods and services listed in Application Serial Nos. 77/681,512 and 77/681,498, is likely to cause confusion or mistake or to deceive the trade and the purchasing public into believing that Applicant's goods and services emanate from or are sponsored, approved or endorsed by Opposer, or into believing that Applicant is in some way related to Opposer, in violation of Section 2(a) and/or Section 2(d) of the Trademark Act.

10. If Applicant is granted the registration opposed herein, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and harm to Opposer.

WHEREFORE, Opposer requests that this opposition be sustained and that the Application Serial Nos. 77/681,512 and 77/681,498 of Applicant be refused registration.

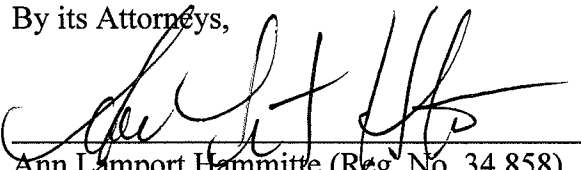
The required fee is submitted herewith. The Commissioner is authorized to charge any deficiencies or overpayments to Deposit Account No. 50/2762 (Ref. No.: L2040-5000) of the undersigned attorneys.

Respectfully submitted, this 28th day of October, 2009.

THE LAPTOP COMPANY, INC.

By its Attorneys,

By:


Ann Lamport Hammitte (Reg. No. 34,858)
LANDO & ANASTASI, LLP
One Main Street, Eleventh Floor
Cambridge, MA 02142
Telephone: 617-395-7019
Facsimile: 617-395-7070

Exhibits:

- A TARR Report for U.S. Application No. 77/795,043
- B TARR Report for U.S. Application No. 77/681,512
- C TARR Report for U.S. Application No. 77/681,498

CERTIFICATE OF SERVICE

I hereby certify that the foregoing NOTICE OF OPPOSITION is being filed electronically with the U.S. Patent and Trademark Office, Trademark Trial and Appeal Board on the date set forth below, and that, on October 28, 2009, a true and correct copy was served by first-class mail, postage prepaid upon Applicant, through its counsel, at the correspondence address provided:

William O. Ferron, Jr.
SEED IP LAW GROUP, PLLC
701 5th Avenue, Suite 5400
Seattle, WA 98104-4900


Geraldine MacLellan

EXHIBIT

A

Thank you for your request. Here are the latest results from the TARR web server.

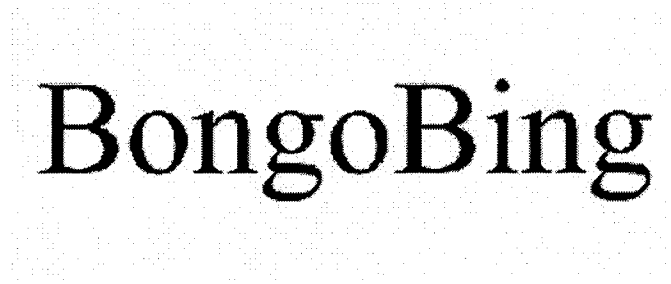
This page was generated by the TARR system on 2009-10-28 09:59:13 ET

Serial Number: 77795043 Assignment Information

Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark



(words only): BONGO BING

Standard Character claim: Yes

Current Status: Newly filed application, not yet assigned to an examining attorney.

Date of Status: 2009-08-10

Filing Date: 2009-08-02

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 042 -New Application Processing

Date In Location: 2009-08-10

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. The Laptop Company, Inc.

DBA/AKA/TA/Formerly: TA BongoBing

Address:

The Laptop Company, Inc.
231 Forest ST Box 2620
Babson Park, MA 02457
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

Phone Number: 4089810879

GOODS AND/OR SERVICES

International Class: 035

Class Status: Active

Comparison shopping services; Promoting the goods and services of others by means of operating an on-line shopping mall with links to the retail web sites of others

Basis: 1(a)

First Use Date: 2008-00-00

First Use in Commerce Date: 2008-10-24

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-08-06 - Notice Of Pseudo Mark Mailed

2009-08-05 - New Application Office Supplied Data Entered In Tram

2009-08-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

THE LAPTOP COMPANY, INC.
THE LAPTOP COMPANY, INC.
231 FOREST ST
BABSON PARK, MA 02457

Phone Number: 4089810879

EXHIBIT

B

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-28 10:02:04 ET

Serial Number: 77681512 Assignment Information

Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

The image shows the word "BING" in a large, bold, serif font. The letters are black and set against a light, textured background that appears to be a grid of small dots or a fine mesh.

(words only): BING

Standard Character claim: Yes

Current Status: A request for an extension of time to file an opposition has been filed at the Trademark Trial and Appeal Board.

Date of Status: 2009-07-17

Filing Date: 2009-03-02

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 112

Attorney Assigned:
MAHMOUDI MARIAM AZIZ

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-05-22

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Microsoft Corporation

Address:
Microsoft Corporation

One Microsoft Way
Redmond, WA 980526399
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Washington

GOODS AND/OR SERVICES

International Class: 039
Class Status: Active
providing a web site and web site links to geographic information, map images, and trip routing
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

USPTO Reference Number: A0015445
International Registration Number: 0996700
International Registration Date: 2009-03-02
Original Filing Date with USPTO: 2009-03-02
International Registration Status: Application For IR Registered By IB
Date of International Registration Status: 2009-04-09
International Registration Renewal Date: 2019-03-02
Irregularity Reply by Date: (DATE NOT AVAILABLE)

Madrid History:

04-09-2009 - 15:21:29 - Application For IR Registered By IB
03-06-2009 - 21:02:35 - IR Certified And Sent To IB
03-06-2009 - 09:50:08 - Manually Certified
03-05-2009 - 20:19:26 - New Application For IR Received

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-07-17 - Extension Of Time To Oppose Received

2009-06-30 - Published for opposition

2009-06-10 - Notice of publication

2009-05-22 - Law Office Publication Review Completed

2009-05-22 - Assigned To LIE

2009-05-22 - Approved for Pub - Principal Register (Initial exam)

2009-05-21 - Assigned To Examiner

2009-03-05 - New Application Office Supplied Data Entered In Tram

2009-03-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

William O. Ferron, Jr.

Correspondent

WILLIAM O. FERRON, JR.
SEED IP LAW GROUP PLLC
701 5TH AVE STE 5400
SEATTLE, WA 98104-7064
Phone Number: 206-622-4900
Fax Number: 206-682-6031

EXHIBIT

C

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-28 10:02:34 ET

Serial Number: 77681498 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

The image shows the word "BING" in a large, bold, serif font. The letters are black and set against a light, textured background that appears to be a scan of a document.

(words only): BING

Standard Character claim: Yes

Current Status: A request for an extension of time to file an opposition has been filed at the Trademark Trial and Appeal Board.

Date of Status: 2009-08-18

Filing Date: 2009-03-02

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 112

Attorney Assigned:
MAHMOUDI MARIAM AZIZ

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-07-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Microsoft Corporation

Address:
Microsoft Corporation

One Microsoft Way
Redmond, WA 980526399
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Washington

GOODS AND/OR SERVICES

International Class: 009**Class Status:** Active

computer search engine software; graphical user interface software, namely, toolbar software for use with search engine software and websites

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 035**Class Status:** Active

advertising services; dissemination of advertising for others via the Internet; providing consumer product information via the Internet; advertising and directory services, namely, promoting the goods and services of others by providing a website featuring links to the websites of others; providing online directory services featuring business and personal directory information; providing an Internet website featuring news and information in the fields of national and international politics and business

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 038**Class Status:** Active

telecommunication services, namely, receipt and delivery of information, messages, documents, images and other data by electronic transmission; streaming of audio and video on the Internet

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 041**Class Status:** Active

education, namely, providing training and tutorials in the field of computer searching and online advertising; entertainment services, in the nature of providing online news and information in the fields of entertainment, education, pop culture, cultural activities and exhibitions, sports, and other non-business and non-commercial fields, namely, games, music, literature, the arts, television, films and performance art

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 042**Class Status:** Active

computer services, namely, providing search engines for obtaining data on a global computer network

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Foreign Application Number: 796467

Country: New Zealand

Foreign Filing Date: 2008-09-22

MADRID PROTOCOL INFORMATION

USPTO Reference Number: A0015446

International Registration Number: 0996797

International Registration Date: 2009-03-02

Original Filing Date with USPTO: 2009-03-02

International Registration Status: Application For IR Registered By IB

Date of International Registration Status: 2009-04-09

International Registration Renewal Date: 2019-03-02

Irregularity Reply by Date: (DATE NOT AVAILABLE)

Madrid History:

04-09-2009 - 15:31:09 - Application For IR Registered By IB

03-06-2009 - 21:02:35 - IR Certified And Sent To IB

03-06-2009 - 09:47:40 - Manually Certified

03-05-2009 - 20:29:54 - New Application For IR Received

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-08-18 - Extension Of Time To Oppose Received

2009-08-18 - Published for opposition

2009-07-29 - Notice of publication

2009-07-13 - Law Office Publication Review Completed

2009-07-13 - Assigned To LIE

2009-07-01 - Approved for Pub - Principal Register (Initial exam)

2009-07-01 - Examiner's Amendment Entered

2009-07-01 - Notification Of Examiners Amendment E-Mailed

2009-07-01 - EXAMINERS AMENDMENT E-MAILED

2009-07-01 - Examiners Amendment - Written
2009-06-09 - Teas/Email Correspondence Entered
2009-06-08 - Communication received from applicant
2009-06-08 - TEAS Response to Office Action Received
2009-05-22 - Notification Of Non-Final Action E-Mailed
2009-05-22 - Non-final action e-mailed
2009-05-22 - Non-Final Action Written
2009-05-21 - Assigned To Examiner
2009-03-05 - New Application Office Supplied Data Entered In Tram
2009-03-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

William O. Ferron, Jr.

Correspondent

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Fax Number: 206-682-6031
